

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL MISCELLANEOUS APPLICATION NO.239/2005**

MISS MARIA ZORAIDA SAROJINI VAS,
MAJOR, R/O. SAPNA HERITAGE,
FIRST FLOOR, OPP. VIDHYA VIKAS
ENGLISH SCHOOL, HOLY SPIRIT CHURCH,
MARGAO.

.... APPLICANT

VERSUS

1. SHRI ADOLFO VAS,
H.NO.176, NEAR HOLY SPIRIT CHURCH,
MARGAO-GOA.

2. STATE
(THROUGH LD. P.P.)

.... RESPONDENTS

SHRI P.P. SINGH, ADVOCATE FOR THE APPLICANT.

CORAM : **N. A. BRITTO, J.**

DATE : **12/12/2005**

ORAL ORDER

Heard Shri P.P. Singh, the learned Advocate on behalf of the
Applicant/Accused.

2. The learned JMFC, Margao by order dated 6/07/05 was pleased
to issue process against the Applicant under Sections 379 and 406 of I.P.C. in
a Complaint case filed by her brother.

3. Shri P.P. Singh submits that the Applicant put up his appearance before the learned JMFC on 12/08/2005 and if one considers the said date than the Revision Petition filed before this Court would be well within limitation. Shri P.P. Singh further submits that infact the Applicant was served about 2 or 3 days prior to the Applicant appeared before the learned JMFC, Margao, on 12/08/2005.

4. The Applicant/Accused has invoked the Revisional Jurisdiction of this Court against said order dated 6/07/2005 issuing process against the Applicant under Sections 379 and 406 of I.P.C.

5. The Revisional Jurisdiction has been conferred by Sections 397 of the Code of Criminal Procedure, 1973 concurrently on the Court of Sessions as well as on this Court. When jurisdiction is conferred concurrently on two Courts, it is the choice of a Higher Court whether the jurisdiction is to be exercised or not by bypassing the lower Court. As held by this Court in the case of ***Dr. Mohan N. Bhawe versus Ms. Travel Force & Anr.*** (unreported decision of this Court dated 6/4/05 in C.R.M.A. No.52/2005) as well as in ***V.K. Jain & Others versus Pratap V. Padode & Another*** (2005(2) Bom. C.R.(Cri.) 738) when the Applicant has an equally efficacious remedy of approaching the Court of Sessions, in revision, this Court need not exercise its revisional jurisdiction.

6. In case there is delay in filing the application, the same could be considered by the Court of Sessions as and when and the application for revision is filed alongwith application for condonation of delay, if any.

7. The Applicant/Accused is at liberty to approach the Court of Sessions and file a revision against the said order dated 6/07/05 of the learned J.M.F.C., Margao.

8. With the above observations Criminal Miscellaneous Application No.239/2005 shall stand disposed of. Certified copy be returned to Advocate Shri P.P. Singh.

N. A. BRITTO, J.

NH